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10/743,476	12/23/2003	Jong-Goo Lee	678-1264	9615

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EXAMINER	
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ART UNIT	PAPER NUMBER
2179	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action After the Filing of an Appeal Brief	Application No. 10/743,476	Applicant(s) LEE ET AL.	
	Examiner STEVEN B. THERIAULT	Art Unit 2179	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The reply filed 08 December 2008 is acknowledged.

1. ☐ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:

   a. ☐ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).

   b. ☐ The affidavit or other evidence is not timely filed before the filing of an appeal brief. See 37 CFR 41.33(d)(2).

2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

   Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☒ The reply is entered. An explanation of the status of the claims after entry is below or attached.

4. ☒ Other: *See Continuation Sheet*

/Steven B Theriault/
Primary Examiner
Art Unit: 2179

Continuation of 4 Other: a. The information disclosure statement filed 12/30/2008 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

b. The reply brief has been entered but contains substantially the same argument as presented in the appeal. It is clear applicant does not believe the rejection is a proper 102 and relies on two arguments. 1) applicant argues the rejection is based on multiple embodiments, which is improper according to the supplied netmoney decision. 2) applicant argues the rejection is based on multiple references and is improper. The answer filed 10/07/08 is clear as to the position of the office and does not agree with applicant. In response and in summary, a reference to specific paragraphs, columns, pages, or figures in a cited prior art reference is not limited to preferred embodiments or any specific examples. It is well settled that a prior art reference, in its entirety, must be considered for all that it expressly teaches and fairly suggests to one having ordinary skill in the art. Stated differently, a prior art disclosure reading on a limitation of Applicant's claim cannot be ignored on the ground that other embodiments disclosed were instead cited. Therefore, the Examiner's citation to a specific portion of a single prior art reference is not intended to exclusively dictate, but rather, to demonstrate an exemplary disclosure commensurate with the specific limitations being addressed. In re Heck, 699 F.2d 1331, 1332-33,216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006,1009, 158 USPQ 275, 277 (CCPA 1968)). In re: Upsher-Smith Labs. v. Pamlab, LLC, 412 F.3d 1319, 1323, 75 USPQ2d 1213, 1215 (Fed. Cir. 2005); In re Fritch, 972 F.2d 1260, 1264, 23 USPQ2d 1780, 1782 (Fed. Cir. 1992); Merck & Co. v. Biocraft Labs., Inc., 874 F.2d 804, 807, 10 USPQ2d 1843, 1846 (Fed. Cir. 1989); In re Fracalossi, 681 F.2d 792,794 n.1,215 USPQ 569, 570 n.1 (CCPA 1982); In re Lamberti, 545 F.2d 747, 750, 192 USPQ 278, 280 (CCPA 1976); In re Bozek, 416 F.2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969). In this example, it appears applicant has not looked at the entire reference in terms of the user interface referred referred to and used in the cited section and figure 15. Column 85, lines 5-67 and Figure 15 were used in the initial rejection but other sections of the reference further teach the same embodiment and to ignore those sections is improper. For example, Figure 15, is described in Column 83 as a flow chart for a predictive user interface. Figure 15, contains a flow diagram for leading the user through a correct sequence of steps on the user interface displayed on the screen (See column 83, bottom, Column 84, top). Figure 15, shows two steps of "analyzing a program sequence to predict a next action" and then "displaying the predicted action", which are predictive interface steps. Column 83, bottom describes the preferred embodiment as a VCR interface. The cited column 85 used in the rejection refers to the same figure 15 and user interface for a VCR but also refers to the steps shown to the user in the interface. Column 97-98 also refer to "the interface" and the mechanism for interaction with the interface. Therefore, in spite of applicants assertion the rejection is based on the entire reference. There are multiple sections of the reference that refer to the same embodiment and should be considered by applicant. The user interface described column 97-98 is the same interface displayed to the user to program a user interface as shown in example 1 and in figure 15. While example 5 refers to an additional element of using an infrared input device that allows for wireless interaction, the user interface is the same user interface discussed in example 1 column 83 and 85. Clearly, column 97-98 are directed to "the interface". Therefore, the rejection not only points out the specific limitations in the same reference but also teaches the limitations as arranged in the claim. In the cited section, there is a user interface, there is a proactive alteration of the interface based on a system detected pattern, and there is an alteration of at least on function of the system based on the pattern. Turning to the second argument, the examiner answer and the rejection serve as a record for what is used by the examiner. The cited incorporated by reference patents are a part of the Hoffberg reference as if they were written in the document and should be considered by applicant as relevant prior art. The examiner referred to the cited art to show the state of the art at the time of filing. The rejection also cited column 10, lines 15-31 that expressly states the incorporated patents are relevant to pattern recognition and are relevant to the interface of the present invention. Therefore, the examiner did not use a multiple rejection 102 and 2131.01 does not apply. All of the incorporated references are a part of the Hoffberg reference and the examiner did not specifically cite any additional reference to teach the limitations of the claim. Moreover, 2163.07 applies as the cited patents are a part of the text of the application as filed and should be considered as such.